



Housatonic Valley Association

150 Kent Road
P.O. Box 28
Cornwall Bridge, CT 06754
860-672-6678

www.hvatoday.org

1383 Pleasant Street
P.O. Box 251
South Lee, MA 01260
413-394-9796

19 Furnace Bank Road
P.O. Box 315
Wassaic, NY 12592
845-789-1381

April 4, 2012

Kathleen Baskin, P.E. (Kathleen.Baskin@state.ma.us)
Director of Water Policy and Planning
Executive Office of Environmental Affairs
100 Cambridge Street
Boston, MA

Dear Ms. Baskin,

The Housatonic Valley Association (HVA) appreciates the tremendous effort that state staff and others have dedicated to SWMI. The scientific findings and development of ecologically-based streamflow criteria represent a major step forward. However, serious weaknesses in the proposed SWMI Framework undermine its credibility, negate its effectiveness and thwart truly sustainable water management. We respectfully urge EEA to make the following changes to the SWMI Framework:

- The proposed safe yield methodology is unacceptable because it is not safe for our rivers. Inaccurate, excessive safe yield values undermine the entire SWMI Framework.
 - The EEA methodology ignores the fact that less water than EEA “safe yield” is available in the summertime, which is also the period of highest water demand. Using EEA’s own data and assumptions, if the safe yield were actually withdrawn continuously from our rivers, all Massachusetts rivers would be pumped dry during droughts, and most would be dry for half or more of the summertime. All Massachusetts rivers would be classified as Category 5: Severely Degraded. Nothing in the SWMI Framework would prevent flows from falling below safe levels or require action when they do.
 - The failure to address geographic scale is another major deficiency, allowing excessive withdrawals from areas with insufficient hydrologic capacity. The scale problem could be addressed by expressing safe yield on a square-mile basis and explicitly stating that safe yield is exceeded in flow-depleted sub-basins (FL 4 and 5).
 - The reservoir credit is based on reservoir storage capacity without regard to the impacts of capturing and storing the annual river flow. The credit is higher than 100% of the annualized drought flow in almost all cases. Allowing such a large storage credit, in addition to the high safe yield values, is inconsistent with protecting ecological health and reserving environmental flows in our rivers.
 - The excessive safe yields proposed by SWMI are the antithesis of sustainable water management and should be abandoned. Development of a credible safe yield methodology should be assigned to the U.S. Geological Survey, in an objective, peer-reviewed process.
- The streamflow criteria (which should be “standards”) identify the limits of acceptable flow-alteration, which is excellent progress; now we know how much water a healthy river fish community needs. However, the criteria do not require restoration and do not prevent “backsliding” (and in some cases explicitly allow it), nor do they establish “hands-off flows” or trigger specific action in real-time when flows fall below the criteria thresholds. The criteria as proposed will not prevent rivers from becoming depleted below safe levels or from being pumped dry. This must be remedied.
- Permitted withdrawals must fully minimize and mitigate their impacts, without the proposed exceptions for the arbitrary, inequitable and unnecessarily complicated “baseline.” The required conditions should be based on impacts to the environment, as the regulations

April 4, 2012

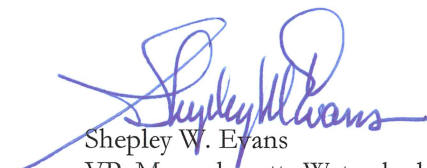
Page 2

already require. There is no rational basis for the 5-8% additional volume. Also, the baseline proposal gives the most water to those communities that have saved the least, and the least to those that have saved the most; this is counterproductive and unsustainable.

- All water Demand Management measures, as well as Enterprise Accounts, should be classified under “minimizing impacts” rather than mitigation. The feasibility analysis must include the environmental costs of the impacts of water withdrawals and should factor in the true value of water in the environment. The effectiveness of mitigation measures must be measurable and quantifiable.
- One of the main weaknesses of the SWMI Framework is that there is nothing that establishes a “hands off flow” that must stay in the river to sustain its ecosystem. The flawed safe yield does not accomplish this, nor do the streamflow criteria. The proposed triggers for outdoor watering restrictions do not even restrict “non-essential” use when flows go below safe levels as defined by SWMI. Worse still, the proposed flow triggers are based on impacted 7-day low-flows, rather than monthly medians. As a result, the proposed triggers would impose the most stringent conditions for rivers that are not flow-depleted or surcharged, while providing the least protection for rivers that are flow-depleted. This is illogical and counterproductive. At a minimum, the trigger for outdoor watering restrictions should be the naturally-occurring monthly medians.
- The proposed restrictions on “non-essential” outdoor water use are weak and ineffectual, allowing watering for 1-7 days a week, even in sub-basin that are seriously degraded due to flow-depletion. Watering should not be permitted in flow-depleted sub-basins during periods when flows are below safe levels for fish and ecological health.
- Redundant wells cannot be exempted from permitting requirements; this is a violation of the letter and spirit of the Water Management Act. DEP should not extend the privileged status of “registered” withdrawals to “new withdrawals” as defined by the WMA.
- Registered withdrawals are not adequately considered under the SWMI proposal and integrated into the Framework. They should be subject to conditions, as ruled by the Supreme Judicial Court, to reduce their impacts on rivers streams, wetlands and fisheries. A legitimate safe yield determination would provide a strong legal basis for doing so.

Thank you for your consideration and this opportunity to share our thoughts.

Respectfully,



Shepley W. Evans
VP, Massachusetts Watershed



Dennis Regan
Berkshire Director